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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,006	10/12/2001	Charles Brockway	MIDTF/306P2	9617

7590 01/23/2003

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VU, STEPHEN A

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/976,006	Applicant(s) Brockway et al	
	Examiner Stephen Vu	Art Unit 3636	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).			
Status <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>10/12/01 & 6/12/02</u></p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>			
Disposition of Claims <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-18</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-18</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>			
Application Papers <p>9) <input checked="" type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
Priority under 35 U.S.C. §§ 119 and 120 <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>			
*See the attached detailed Office action for a list of the certified copies not received.			
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
Attachment(s) <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)* 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>4</u> 6) <input type="checkbox"/> Other: _____</p>			

Art Unit: 3636

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the sentence on lines 1-3 does not contain a noun/verb agreement. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamb et al (D420,225).

Lamb et al (D420,225) shows a chair comprising a chair support, a seat section, a back section, and a pair of arm rests rigidly connected to the back section.

With claims 2 and 10, the back section has a back frame and a back cushion supported on the back frame.

With claims 3,11, and 17, the arm rests are integrally formed with the back frame.

With claims 4,12, and 18, the back frame and arm rests comprise a unitary casting.

With claims 5 and 13, a drive mechanism is provided.

Art Unit: 3636

With claims 6 and 14, the chair support has a chair base, a lift arm supported on the chair base, and a chair support assembly supported on the lift arm.

With claims 7 and 15, the support assembly comprises a yoke member supported on the lift arm and pivotally supporting the back section and a seat support (see Figure 5).

4. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Nordstrom et al (D347,946).

Nordstrom et al (D347,946) shows a chair comprising a chair support, a seat section, a back section, and a pair of arm rests rigidly connected to the back section.

With claims 2 and 10, the back section has a back frame and a back cushion supported on the back frame.

With claims 3,11, and 17, the arm rests are integrally formed with the back frame.

With claims 4,12, and 18, the back frame and arm rests comprise a unitary casting.

With claims 5 and 13, a drive mechanism is provided.

With claims 6 and 14, the chair support has a chair base, a lift arm supported on the chair base, and a chair support assembly supported on the lift arm.

With claims 7 and 15, the support assembly comprises a yoke member supported on the lift arm and pivotally supporting the back section and a seat support (see Figure 5).

5. Claims 1-2,4-10, and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Heubeck.

Art Unit: 3636

Heubeck shows a chair comprising a chair support, a seat section (5), a back section (5), and a pair of arm rests (11) rigidly connected to the back section.

With claims 2 and 10, the back section has a back frame and a back cushion supported on the back frame.

With claims 4,12, and 18, the back frame and arm rests comprise a unitary casting.

With claims 5 and 13, a drive mechanism is provided.

With claims 6 and 14, the chair support has a chair base (13), a lift arm (2) supported on the chair base, and a chair support assembly (3) supported on the lift arm.

With claims 7 and 15, the support assembly comprises a yoke member supported on the lift arm and pivotally supporting the back section and a seat support (see Figure 5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3636

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 3,11,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heubeck. Heubeck discloses the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally form the arm rests with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Krestel et al, Broadhead et al, Broadhead, Stoeckl et al, Taylor et al, Brockway et al, Krebs, Krebs et al, and Johnson are cited as showing similar types of chair.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F, 8:30 am - 5:00 pm.

Art Unit: 3636

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Stephen Vu

Stephen Vu
Patent Examiner
January 20, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600